

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)

Decision not to make a Property Factor Enforcement Order: s19(1) Property Factors (S) Act

Chamber Ref: FTS/HPC/PF/170051

1/1 48 DORSET STREET, GLASGOW G3 7AJ
("the Property")

The Parties:-

John Balke, residing at 1/1 48 Dorset Street, Glasgow G3 7AJ
("the Homeowner")

Glasgow West Enterprises Limited, 5 Royal Crescent, Glasgow G3 7SL
("the Respondent")

Tribunal Members:
Richard Mill (Legal Member)
Colin Campbell (Ordinary Member)

Decision

The Tribunal unanimously determines not to make a Property Factor Enforcement Order.

Background

In terms of a decision of the Tribunal dated 12 September 2017, the Respondent was found to have breached Sections 2.1, 2.5 and 6.1 of the Code of Conduct for Property Factors. By way of Notice also dated 12 September 2017, the Tribunal proposed making a Property Factor Enforcement Order (PFEO) in the following terms:-

"Within 6 weeks of this Decision being issued to the parties, the Respondent must:-

- 1. Make a payment to the Homeowner in the sum of £500 by way of compensation to reflect the inconvenience and stress caused as a consequence of the Respondent's failures and their breaching of the Code.**

- 2(a). Prepare a schedule of proposed staff training to ensure that all relevant staff within their organisation are fully aware of the Respondent's obligations which arise both in terms of the Code of Conduct and their general duties as Property Factor.**
- (b). Prepare a schedule of proposed staff training to ensure that all relevant staff within their organisation are fully aware of the Respondent's procedures for the handling of complaints, including the meeting of timescales set out within their complaints procedures.**
- (c). Undertake to ensure that new members of staff within the Respondent's organisation are suitably trained in relation to the Respondent's obligations, both in terms of the Code of Conduct and their general duties as Property Factor, including the handling of complaints prior to being deployed to carry out relevant work.**
- (d). Evidence the training provided to staff in respect of the handling of complex complaints provided by the Scottish Public Services Ombudsman in February 2017.**

and the Tribunal requires evidence of compliance with 1 and 2(a)-(d) above by way of certification by the Respondent's Chief Executive Officer."

Parties were invited to make comments within 14 days.

Correspondence received from parties

A letter was received from the Homeowner dated 29 September 2017. The Homeowner's attack on the proposed Property Factor Enforcement Order related purely to the level of compensation proposed to be awarded by the Tribunal. The said correspondence was couched in terms to seek a review of the Tribunal's decision. This correspondence was treated as an application for review in terms of Rule 7A of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Regulations 2016. The Tribunal has refused that application for review as being wholly without merit and refers to their corresponding decision of even date in that regard.

Correspondence dated 2 October 2017 has been received from the solicitors acting on behalf of the Respondent. This attaches a letter from the Respondent's chief executive, Linda Reid, which has attached to it full vouching which discloses that all component parts of the proposed Property Factor Enforcement Order have already been undertaken by the Respondent.

Reasons for Decision

All the elements of the proposed Property Factor Enforcement Order have been discharged by the actions of the Respondent and vouched. There is no longer a necessity for a Property Factor Enforcement Order to be made and accordingly the Tribunal does not make one.

Appeals

A homeowner or property factor aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

R Mill

____ Legal Member

10 October 2017 Date